



Reprinted
April 11, 2003

ENGROSSED SENATE BILL No. 208

DIGEST OF SB 208 (Updated April 10, 2003 3:18 PM - DI 69)

Citations Affected: IC 6-1.1; IC 13-11; IC 13-20; IC 13-21; IC 14-32; noncode.

Synopsis: Newspaper fee. Requires a publisher or distributor of a daily newspaper with a circulation of at least 12,500 to pay a fee of: (1) \$2 for each metric ton of paper used to publish a daily newspaper in Indiana; or (2) one cent for each daily newspaper published outside Indiana and distributed in Indiana. Distributes the fees to: (1) the clean water Indiana fund; (2) a fund for payments in lieu of property taxes for land owned or leased by the department of natural resources; and (3) provide scholarships through the department of 4-H and youth development of the Purdue University cooperative extension service.

Effective: January 1, 2003 (retroactive); upon passage; July 1, 2003.

Gard, Hume

(HOUSE SPONSORS — MANGUS, WOLKINS, BOTTORFF)

January 9, 2003, read first time and referred to Committee on Environmental Affairs.
February 4, 2003, amended, reported favorably — Do Pass.
February 11, 2003, read second time, amended, ordered engrossed.
February 12, 2003, engrossed.
February 13, 2003, read third time, passed. Yeas 49, nays 0.

HOUSE ACTION

March 4, 2003, read first time and referred to Committee on Environmental Affairs.
April 8, 2003, amended, reported — Do Pass.
April 10, 2003, read second time, amended, ordered engrossed.

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ES 208—LS 6864/DI 52+



Reprinted
April 11, 2003

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

ENGROSSED SENATE BILL No. 208

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-1.1-21.3 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2003 (RETROACTIVE)]:

4 **Chapter 21.3. Payments in Lieu of Property Taxes**

5 **Sec. 1. As used in this chapter, "PILOT" refers to a payment in**
6 **lieu of taxes.**

7 **Sec. 2. The auditor of state shall make a PILOT on May 1 and**
8 **November 1 of each year with respect to land that:**

- 9 (1) was owned by or leased by the department of natural
10 resources on March 1 of the previous year; and
11 (2) is exempt from property taxes.

12 **Sec. 3. The PILOT paid under section 2 of this chapter is the**
13 **following amount for each acre of land owned by or leased by the**
14 **department of natural resources on March 1 of the previous year:**

- 15 (1) Two dollars (\$2) in a county in which the department
16 owned or leased less than five percent (5%) of the acreage in
17 the county on March 1 of the previous year.

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(2) Three dollars (\$3) in a county not referred to in subdivision (1).

Sec. 4. (a) A PILOT:

(1) is billed;

(2) is due;

(3) bears interest if unpaid;

(4) is subject to penalty if unpaid; and

(5) is distributed to political subdivisions within a county; in the same manner as ad valorem taxes on property.

(b) A PILOT:

(1) is not eligible for the property tax replacement credit under IC 6-1.1-21; and

(2) except as provided in subsection (a), is not treated as a property tax for purposes of other procedural and substantive provisions of law.

Sec. 5. Not later than April 1 of each year, the state land office division established by IC 4-20.5-2-1 shall provide the auditor of state with a report of:

(1) for each county, the location of land described in section 2 of this chapter; and

(2) the acreage of the land identified under subdivision (1).

Sec. 6. (a) The PILOT transfer account within the state general fund is established to make PILOTS under section 2 of this chapter. The auditor of state shall administer the account.

(b) Expenses of administering the account are to be paid from money in the account.

(c) There is annually appropriated from the state general fund to the PILOT transfer account the amount necessary to make the PILOTS required by this chapter.

SECTION 2. IC 13-11-2-48.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 48.5. "Daily newspaper", for purposes of IC 13-20-24, means a newspaper that:**

(1) has a circulation of at least twelve thousand five hundred (12,500); and

(2) publishes at least five (5) issues each week.

SECTION 3. IC 13-11-2-242, AS AMENDED BY P.L.225-2001, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 242. "Unit", for purposes of:**

(1) section 148(c) of this chapter;

(2) IC 13-20-17.5;

(3) IC 13-20-20; and



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1 (4) IC 13-21-3-12; and
 2 (5) IC 13-23;
 3 has the meaning set forth in IC 36-1-2-23.

4 SECTION 4. IC 13-20-24 IS ADDED TO THE INDIANA CODE
 5 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2003]:

7 **Chapter 24. Newspaper Fee**

8 **Sec. 1. A:**

9 (1) publisher of a daily newspaper published in Indiana shall
 10 pay a fee of two dollars (\$2) for each metric ton of paper used
 11 by the publisher to publish the daily newspaper; and
 12 (2) distributor of a daily newspaper published outside Indiana
 13 and distributed in Indiana shall pay a fee of one cent (\$0.01)
 14 for each newspaper distributed in Indiana by the distributor;
 15 as provided in section 2 of this chapter.

16 **Sec. 2. A publisher or distributor shall pay the fee described in**
 17 **section 1 of this chapter:**

- 18 (1) to the treasurer of state; and
 19 (2) before the fifteenth day of each month:
 20 (A) for each metric ton of paper used by the publisher as
 21 described in section 1(1) of this chapter; or
 22 (B) for each newspaper distributed by the distributor in
 23 Indiana as described in section 1(2) of this chapter;
 24 during the preceding month.

25 **Sec. 3. The treasurer of state shall distribute the fees collected**
 26 **under section 2 of this chapter before the last day of each month as**
 27 **follows:**

- 28 (1) Before July 1, 2008, fifty percent (50%) of the fees shall be
 29 deposited in the clean water Indiana fund established by
 30 IC 14-32-8-6. After June 30, 2008, ninety-five percent (95%)
 31 of the fees shall be deposited in the clean water Indiana fund
 32 established by IC 14-32-8-6.
 33 (2) Before July 1, 2008, forty-five percent (45%) of the fees
 34 shall be deposited in the PILOT transfer account within the
 35 state general fund under IC 6-1.1-21.3-6.
 36 (3) Five percent (5%) of the fees shall be distributed to the
 37 department of 4-H and youth development of the Purdue
 38 University cooperative extension service to provide
 39 scholarships:
 40 (A) to persons who have been members of 4-H clubs for at
 41 least ten (10) years; and
 42 (B) based upon a person's:



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- (i) achievements involving 4-H activities; and
- (ii) financial need.

The director of the Purdue University cooperative extension service shall adopt rules under IC 4-22-2 to implement this subdivision.

Sec. 4. The department of state revenue may audit the publisher of a daily newspaper published in Indiana as described in section 1(1) of this chapter to determine if the publisher is in compliance with this chapter.

SECTION 5. IC 14-32-8-6, AS ADDED BY P.L.160-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) The clean water Indiana fund is established to carry out the purposes of this chapter. The fund shall be administered by the division of soil conservation subject to the direction of the board.

(b) The fund consists of **the following:**

- (1) Amounts appropriated by the general assembly. ~~and~~
- (2) **Deposits of newspaper fees made by the treasurer of state under IC 13-20-24-3(1).**
- (3) Donations, grants, and money received from any other source.

(c) The expenses of administering the fund shall be paid from money in the fund.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

SECTION 6. [EFFECTIVE UPON PASSAGE] (a) **Notwithstanding IC 6-1.1-21.3-5, as added by this act, the state land office division shall provide to the auditor of state the information required under IC 6-1.1-21.3-6, as added by this act, not later than July 1, 2003.**

(b) The auditor of state shall make the first PILOT (as defined in IC 6-1.1-21.3-1, as added by this act) under IC 6-1.1-21.3-2, as added by this act, on May 1, 2004.

(c) This SECTION expires December 31, 2004.

SECTION 7. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Environmental Affairs, to which was referred Senate Bill No. 208, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-21.5-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The office of environmental adjudication is established to review, under this article, decisions of the commissioner of the department of environmental management.

(b) The office of environmental adjudication shall:

(1) conduct adjudicatory hearings required to implement:

~~(A)~~ (A) air pollution control laws (as defined in IC 13-11-2-6), water pollution control laws (as defined in IC 13-11-2-261), environmental management laws (as defined in IC 13-11-2-71), and IC 13-19; and

~~(2)~~ (B) rules of:

- ~~(A)~~ (i) the air pollution control board;
- ~~(B)~~ (ii) the water pollution control board;
- ~~(C)~~ (iii) the solid waste management board; and
- ~~(D)~~ (iv) the financial assurance board; and

shall be conducted by the office of environmental adjudication under ~~IC 4-21.5~~.

(2) notify a board referred to in subdivision (1)(B) of the results of an adjudicatory hearing if a rule of the board is a subject of the hearing."

Page 2, line 14, delete "IC 13-14-9-4(6)," and insert "IC 13-14-9-4(6):".

Page 2, delete line 15.

Page 2, line 16, delete "consult with".

Page 2, line 17, after "management" insert "**shall consult with the legislative services agency**".

Page 2, line 19, after "(2)" insert "**the legislative services agency shall**".

Page 7, delete lines 15 through 42, begin a new paragraph and insert:

"SECTION 8. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "boards" refers to:**

- (1) the air pollution control board;**



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- (2) the water pollution control board; and
- (3) the solid waste management board.

(b) Before November 1, 2003, the environmental quality service council shall:

- (1) consider whether the rulemaking operations of the boards are sufficiently independent of influence of:
 - (A) the department of environmental management; and
 - (B) other state agencies or entities;
- (2) consider the overall efficiency of rulemaking operations of the boards; and
- (3) submit its final report on the matters described in subdivisions (1) and (2) to:
 - (A) the governor; and
 - (B) the executive director of the legislative services agency.

(c) As part of its consideration under subsection (b)(1) and (b)(2), the environmental quality service council shall examine the following:

- (1) The composition of the boards.
- (2) The appointing authorities for members of the boards.
- (3) The extent to which the boards control staff who serve the boards.
- (4) The sources and availability of data concerning:
 - (A) the fiscal impact; and
 - (B) other aspects;
 of proposed rules.
- (5) The involvement of employees of:
 - (A) the department of environmental management; and
 - (B) other state agencies or entities;
 in the rulemaking process.
- (6) The procedures to initiate and adopt proposed rules.
- (7) The procedures to determine which issues are addressed in proposed rules and which issues are addressed in nonrule policy documents.
- (8) The requirements for public notice and public participation in the rulemaking process.
- (9) The means by which other states maintain independent and efficient operations of environmental rulemaking entities.
- (10) Any other matter the environmental quality service council considers appropriate.

(d) This SECTION expires January 1, 2004."

Delete pages 8 through 11.

Page 12, delete lines 1 through 6.

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Page 12, after line 20, begin a new paragraph and insert:

"SECTION 10. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 208 as introduced.)

GARD, Chairperson

Committee Vote: Yeas 9, Nays 0.

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SENATE MOTION

Mr. President: I move that Senate Bill 208 be amended to read as follows:

Page 1, line 2, after "3." insert **"(a)"**.

Page 2, line 2, delete "the" and insert **"a final order of the office of environmental adjudication that interprets:**

(A) a rule of the board; or

(B) a statute under which a rule of the board is authorized."

Page 2, delete lines 3 through 4.

Page 2, line 35, delete "IC 13-14-9-4(6):" and insert **"IC 13-14-9:"**.

Page 2, line 36, after "shall" insert **"give written notice to the legislative services agency of the proposed date of preliminary adoption of the proposed rule not less than sixty-six (66) days before that date; and"**.

Page 2, delete lines 37 through 38.

Page 2, line 40, delete "by the time referred to" and insert **"not later than twenty-one (21) days before the proposed date of preliminary adoption of the proposed rule."**

Page 2, delete line 41.

Page 3, line 13, delete "thirty (30)" and insert **"forty-five (45)"**.

Page 3, line 14, delete "publish notice in the Indiana Register of:" and insert **"make available to the public, including posting on the department's website:"**.

Page 3, line 18, delete "including:" and insert **"including, if applicable:"**.

Page 3, line 32, delete "summary response to" and insert **"copy of all comments"**.

Page 3, line 33, delete "each comment".

Page 4, delete lines 33 through 34, begin a new line double block indented and insert:

"(B) include:

(i) a statement indicating whether each alternative listed under clause (A) is imposed under federal law;

(ii) a statement explaining how each alternative listed under clause (A) that is not imposed under federal law differs from federal law; and

(iii) any information known to the department about the potential fiscal impact of each alternative under clause (A) not imposed under federal law; and"

Page 5, delete lines 4 through 28.

Page 6, delete lines 2 through 7, begin a new line block indented



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and insert:

"(5) Identify each element of the proposed rule that imposes a restriction or requirement on persons to whom the proposed rule applies that is not imposed under federal law.

(6) With respect to each element identified under subdivision (5), identify:

(A) the environmental circumstance or hazard that dictates the imposition of the proposed restriction or requirement to protect human health and the environment;

(B) examples in which federal law is inadequate to provide the protection referred to in clause (A); and

(C) the:

(i) estimated fiscal impact; and

(ii) expected benefits;

based on the extent to which the proposed rule exceeds the requirements of federal law.

(7) For any element of the proposed rule that imposes a restriction or requirement that is not imposed under federal law, describe the availability for public inspection of all materials relied upon by the department in the development of the proposed rule, including, if applicable:

(A) health criteria;

(B) analytical methods;

(C) treatment technology;

(D) economic impact data;

(E) environmental assessment data;

(F) analyses of methods to effectively implement the proposed rule; and

(G) other background data.

SECTION 6. IC 13-14-9-4.2 IS ADDED AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4.2. Not less than fourteen (14) days before the date of preliminary adoption of a proposed rule by a board, the department shall make available to the board the fiscal analysis prepared by the legislative services agency under IC 4-22-2-28(c)."

Page 7, line 19, delete "IC 13-14-9-3(7) through IC 13-14-9-3(9)" and insert **"IC 13-14-9-4(5) through IC 13-14-9-4(7)".**

Page 8, line 11, delete "subsection" and insert **"subsections"**.

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Renumber all SECTIONS consecutively.

(Reference is to SB 208 as printed February 5, 2003.)

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred Senate Bill 208, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law and to make an appropriation.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to SB 208 as reprinted February 12, 2003.)

BOTTORFF, Chair

Committee Vote: yeas 6, nays 4.

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 208 be amended to read as follows:

Page 4, delete lines 10 through 42.

Delete pages 5 through 6.

Page 7, delete lines 1 through 22.

Renumber all SECTIONS consecutively.

(Reference is to ESB 208 as printed April 8, 2003.)

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